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Jeremy Fairbank

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EXAMINER

PATTON, AMANDA K

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### DETAILED ACTION

Applicant's arguments filed January 9, 2009 have been fully considered but they are not persuasive.

Regarding Applicant's argument that Woods teaches away from the present invention, Examiner disagrees. It is not "an object of Wood's invention to eliminate the need for a clinician or a computer to select electrode combinations independently of the user" as asserted by Applicant (Page 3, lines 1-2 of the Amendment dated January 9, 2009). In fact, Woods discloses selecting electrode combinations independently of the user. It is rather "an object of the invention to eliminate the need for either a clinician to manually select electrode combinations, or even for a computer to select electrode combinations **that must be discretely tested for patient feedback**" (e.g. Col. 7, lines 19-25 as quoted by Applicant). Regardless of whether Woods teaches that it is desirable to not manually select electrode combinations that must be discretely tested, Woods, in view of Daignault nevertheless disclose the invention as claimed.

As stated by Applicant, Woods discloses a neural stimulator system wherein the patient first selects where pain is generally felt. The device then activates the proper implanted electrodes in the area of the body where the pain is felt. These electrodes are selected independent of the user, since even though the patient indicates where the pain is felt (e.g. the independent input zone), they do not select the electrode combination to be used (e.g. the activation zone configuration of the array of stimulator elements). Then, as shown in Figure 12G, the subject is asked to click where the stimulation is felt. Whether or not the method of Woods allows the patient the option of changing the stimulation is immaterial, as the method of Woods is operable in a mode wherein the patient does not change the stimulation location (e.g. if

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no location change is performed in Figure 12D) and claim is an open-ended apparatus claim that is capable of operating in the mode as described in the claims.

Daignault is only relied upon to teach that an "input zone" can comprise an independent stimulator element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda Patton whose telephone number is (571) 270-1912. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amanda Patton/  
Examiner, Art Unit 3762

/George R Evanisko/  
Primary Examiner, Art Unit 3762